



Paper No. 6

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In re Application of:
Kanayama
Application No. 09/895,622
Filed: June 29, 2001
Attorney Docket No. 96790.P369
For: INK FOUNTAIN APPARATUS FOR
ROTARY PRINTING PRESS

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: **OFFICE OF PETITIONS**
: **DECISION DISMISSING**
: **PETITION**
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This is a decision on the petition, filed September 10, 2002, requesting, in effect, withdrawal of the Notice to File Omitted Item(s) in a Nonprovisional Application (Notice), mailed July 18, 2002.

The application was deposited on June 29, 2001. On July 18 2002, the Office of Initial Patent Examination mailed a Notice informing petitioner that page 22 of the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that page 22 be accorded a filing date of June 29, 2001 on the basis that the entire specification, including allegedly missing page 22, was received in the Patent and Trademark Office (PTO) on June 29, 2001. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing June 29, 2001 as the date of receipt. The postcard lists, *inter alia*, that the filing included 24 pages with cover and abstract.

A properly itemized return postcard constitutes *prima facie* evidence that the items were filed on the date stamped thereon. However, a postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately or properly itemized on the postcard. MPEP 503. The postcard states that the filing consists of 24 pages with cover and abstract. A review of the application file reveals that 1 cover sheet and 22 pages are present. The total number of pages for these two items = 23.

However, page 22 of the specification and the abstract is missing. If page 22 and the abstract were added to the total number of pages, the total would be 25. Therefore, the postcard was not properly itemized (24 vs. 25) and cannot be used to prove page 22 was present. Either page 22 or the abstract was omitted but there is no way to prove which one was omitted.

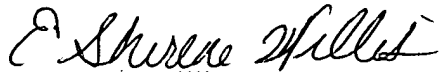
Therefore, the petition is **DISMISSED**.

Fortunately, page 22 appears to be a duplicate of page 23, which is found in the application file. Therefore, petitioner should file an amendment renumbering the pages of the specification to make current page 23 into new page 22.

The petition fee of \$130.00 is being charged to deposit account no. 02-2666.

The application is being returned to the Office of Initial Patent Examination for further processing, using the abstract filed on September 4, 2001. Thereafter, the application will be forwarded to Technology Center 2800 to await the amendment renumbering the pages of the specification.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.



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